

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JUKEN W. GORDON,

Plaintiff

V.

N. GONZALEZ, *et al.*,

Defendants

.....

CIVIL NO. 1: CV 01-0331

(Judge Rambo)

ORDER

Before the court is Plaintiff's *in camera* proffer of the testimony of witnesses he seeks to have subpoenaed for trial. Plaintiff asks that the court issue subpoenas to Dr. Joseph A. Raia, Dr. Sondra Pfeffer, and Dr. Harold Parnes. These individuals are beyond the jurisdiction of this court (*see* Fed. R. Civ. P. 45) and, therefore, the court will not issue subpoenas as to those individuals.

Plaintiff also requests that a subpoena be issued to Dr. William Reish. However, the Federal Rules of Civil Procedure require that the appropriate witness fee and mileage fee be tendered upon any witness upon service of a subpoena, even where a plaintiff is proceeding *in forma pauperis*. Additionally, Plaintiff has failed to provide an address for the witness. The court has no means to subpoena a witness whose address is unknown to the court. Therefore, Plaintiff's request for the issuance of a subpoena to Dr. Reish will be denied.

Plaintiff requests subpoenas as to Anne K. Fiorenza, Esquire, and Lori Cunningham, Esquire. Subpoenas to these individuals will also be denied because Plaintiff's proffered testimony as to these witnesses concern a subject matter that this court has previously ruled was not relevant to the case.

Plaintiff's request for subpoenas to Mark Peoria, USP Lewisburg, Vicarthur Factora, USP Lewisburg, Martin Newton, USP Lewisburg, J. Bennett-Meehan, USP Allenwood, and Lieutenant T. Preisch,¹ USP Lewisburg will be granted, and the witness and mileage fees will be waived by the court because these individuals are agents and/or employees of Defendants.

Accordingly, **IT IS HEREBY ORDERED THAT:**

1) The Clerk of Court shall issue subpoenas to:

Mark Peoria, USP Lewisburg

Vicarthur Factora, USP Lewisburg

Martin Newton, USP Lewisburg

J. Bennett-Meehan, USP Allenwood

The subpoenas shall direct the witnesses to appear for trial in the captioned case at 10:00 a.m. on Wednesday, December 1, 2004, in Courtroom No. 3, Eighth Floor, Federal Building, Third and Walnut Streets, Harrisburg, Pennsylvania.

2) The witness and mileage fees for the witnesses listed above are waived.

3) The United States Marshal shall promptly serve the subpoenas.

4) In all other respects, Plaintiff's requests for subpoenas are denied.

s/Sylvia H. Rambo
Sylvia H. Rambo
United States District Judge

Dated: November 29, 2004.

¹Plaintiff has the witness' name spelled two different ways, Presich and Preisch.